

# INTRODUCTION

## CHAPTER 1

### ***ESTABLISHING THE IPA***

Six years ago, the San José City Council passed an ordinance to establish the Office of the Independent Police Auditor (hereafter referred to as the "IPA"). The IPA was created to provide civilian oversight of the investigation of citizen complaints by the San José Police Department (hereafter referred to as "SJPD"). Unlike in some cities, civilian police oversight was not created in the aftermath of a police crisis. Initially, the IPA consisted of one full time intake coordinator and a part-time Police Auditor. On November 4, 1996, San José residents voted to amend the City Charter making the IPA a permanent city office. The IPA is currently comprised of one full time police auditor and three full time staff members.

### ***THE IPA MODEL***

When the IPA was established in 1993, the concept of a police

auditor was relatively unknown. People were more familiar with civilian review boards which have been in existence for thirty years. The major difference on how the two models function is that civilian review boards are usually investigative bodies which focus a major portion of their resources on a case by case approach versus an auditor model which focus on identifying and changing the underlying causation factor that give rise to complaints. Today, more and more cities are looking at the San José IPA model as the form of civilian oversight for their cities. Cities like Tucson, Arizona; Boise, Idaho and Sacramento, California have used the San José IPA as a model to built on.

### ***CHARACTERISTICS OF THE IPA***

The IPA does not conduct investigations, but rather reviews the investigations conducted by the San José Police Department's Professional

### **MISSION**

*The Independent Police Auditor's mission is to provide an independent review and to promote public awareness of the citizen complaint process; thereby, increasing greater police accountability by the San José Police Department.*

Standards & Conduct Unit (hereafter referred to as "PSCU") for thoroughness, fairness, and to insure that the findings are supported by the evidence. This review may include requesting added investigation, talking to witnesses, examining the physical evidence, attending the officer interviews and continues until the investigation is completed to the satisfaction of the IPA. After all investigative steps are exhausted, and the IPA still disagrees with the finding of an investigation, the IPA will meet with the Chief and the City Manager to discuss the specifics of the case. The IPA also reports to the Mayor and the City Council, the frequency and/or patterns resulting from cases in which the IPA disagreed with the findings reached by the Chief of Police.

## ***FUNCTIONS OF THE OFFICE***

The IPA has three primary functions: (1) it serves as an alternate office where people

may file a complaint, (2) it reviews the investigations of citizen<sup>1</sup> complaints conducted by the SJPd; and (3) it promotes public awareness of a person's right to file a complaint. Every aspect of this process is closely examined from the initial interaction between the PSCU and the complainant to the conclusion of the investigation. The finding is examined to insure that the finding is supported by the evidence and finally an examination of the process used to communicate the results of the investigation to the complainant by the PSCU is conducted. The IPA's primary objective is to provide an independent civilian review of the citizen complaint process.

## ***SIX YEARS OF POLICY RECOMMENDATIONS***

An analysis of the data extracted from citizen complaints form the basis of the recommendations made by the IPA in public reports. These recommendations include

the creation, modification or elimination of policies, procedures or department guidelines. Since its inception, many recommendations have been made. All but three have been adopted and implemented by the San José Police Department. In the past six years, the IPA has published ten public reports. These reports chronicle the work of the IPA and the response by the SJPd to the recommendations.

### **FIRST REPORT**

The first report covered the first three months of the existence of the IPA office and focused on the following recommendations:

- the creation of a new system for the classification of complaints;
- the establishment of procedures to address bias within the PSCU;
- the enactment of policies to improve service to people filing complaints at the PSCU; and
- the implementation of an "early

<sup>1</sup> A citizen is denoted as an individual, not reflective of U.S. citizenship. Any member of the public may file a complaint. The complaint, however, must be one that is directly affected by the wrongdoing of the officer involved or one who witnessed the incident.

warning system” to detect those officers receiving multiple complaints.

### SECOND REPORT

The second report covered the implementation of the recommendations made in the first report and an audit of 60 randomly selected complaints. This audit consisted of personal contacts with the complainants to verify the nature of their complaints and assess the level of satisfaction with the service provided by the PSCU.

### THIRD REPORT

In the third report recommendations were made to expedite the investigation of citizen complaints by setting specific timeliness. An “Onlooker Policy,” which describes a citizen’s right to observe a police action, was made and immediately implemented by the San José Police Department. In addition, it was recommended that training be provided to officers in the area of “Drunk in Public” cases. The first recommendation that was not adopted required chemical testing for

“Drunk in Public” arrests. Cost and lack of a facility in which to provide the testing was cited.

### FOURTH REPORT

The fourth report was a one year comprehensive report which covered the first year of operation for the IPA and the final quarter of 1994. Recommendations to improve communication between the PSCU and the complainant were made and adopted. A very significant recommendation involved the creation of a process by which supervisors would immediately investigate the need to use force on those cases which resulted in serious injuries to a complainant. The on scene investigation focuses not on the crime at hand but on the need to use force. By requiring that supervisors conduct an investigation following a use of force by one of their officers, it forces the supervisors to provide closer supervision, which results in greater accountability to the public.

A recommendation that was not adopted was to mandate that

searches of homes based on consent require that the consent be in writing. Even though this recommendation was not adopted, it nevertheless focused attention on this issue. Allegations of unlawful searches dropped from 47 in 1995 to 7 in 1998.

### FIFTH REPORT

The fifth report tracked prior recommendations and introduced four new areas needing change such as :

- documenting all contacts from the public to insure that people were not dissuaded from filing a complaint;
- providing a friendlier and more private setting for conducting complainant interviews;
- requiring police personnel to offer the IPA as an alternative venue for filing complaints and
- setting guidelines for the interviews of subject and witness officers.

### SIXTH REPORT

The IPA’s independence was seriously tested following the release of the sixth public report

covering the 1995 year. Several recommendations were made in the report including mandatory updates and closing letters to complainants; procedural changes involving strip searches; tracking the ethnicity of complainants and subject officers and an overhaul of the practice of officers working off-duty. Over 50% of the SJPd police force was engaged in off-duty employment with inadequate record keeping or accountability. Members of the San José Police Officers' Association held a press conference in front of city hall objecting to issues in this report. Nevertheless, the city council unanimously approved the report. Ultimately, better working conditions, supervision and pay for officers working off-duty resulted from this recommendation.

#### **SEVENTH REPORT**

The seventh report focused on the implementation of the previous recommendations and also introduced the idea of creating a database that would electronically link the IPA with the PSCU. This database would automate

the input and retrieval of information in one central database for both offices. In addition, the IPA designed and installed a web site giving access to the IPA's public reports and making the filing of complaints via the internet possible.

#### **EIGHTH REPORT**

In 1996, the city council voted to reduce the number of required reports from the IPA to one per year. The year end report for 1996 contained a detailed statistical analysis of the background of complainants and subject officers. It also reported on the previous recommendations and recommended that police officers identify themselves in writing to people asking for a name or badge number.

#### **NINTH REPORT**

The 1997 Year End Report covered the transition of the IPA office into a permanent city office following the passage of Measure E in the November 1996 election. Measure E amended the City Charter to require a vote of the residents of San José before the

IPA office can be abolished and provided insulation to the Police Auditor by requiring a super majority vote of the city council before removal midterm. Statistics specific to each council district were reported. A new recommendation requested that the SJPd change the manner and location in which blood was forcibly extracted from suspects.

#### **TENTH REPORT**

The most significant recommendation in the 1998 Year End Report dealt with officer involved shootings. The IPA requested that its jurisdiction be expanded to include review of police shootings whether or not a complaint was filed. The city council passed an emergency legislation that enabled the IPA to be part of the police shooting review panel created by the Chief of Police. This prompt action by the Chief was very timely, given that in 1999 there were 8 police shootings resulting in 7 deaths.